

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Implementation of Section 621(a)(1) of the)	MB Docket No. 05-311
Cable Communications Policy Act of 1984)	
as amended by the Cable Television)	
Consumer Protection and Competition Act)	
of 1992)	

**REPLY COMMENTS OF
QWEST COMMUNICATIONS INTERNATIONAL INC.**

Qwest Communications International Inc. ("Qwest") hereby files these reply comments in response to the Federal Communications Commission's ("Commission") *Further Notice of Proposed Rulemaking* ("FNPRM") in the above-captioned docket.¹

Qwest views that some of the Commission's findings in the *Cable Franchise Order* may be applicable to renewal of incumbent franchises. Nevertheless, the Commission should recognize that there is a larger competitive playing field than just provision of cable services -- that reflected in the bundled sale of voice, data, and video services -- that should be considered in any leveling of regulatory requirements for only incumbent cable providers. Additionally, while state and local authorities are generally free to impose customer service standards that exceed federal standards, competitive entry should serve to reduce the need for such standards.

¹ *In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, Report and Order and Further Notice of Proposed Rulemaking, MB Docket No. 05-311, 22 FCC Rcd 5101 (2007) ("FNPRM" or "Order" as appropriate), *appeals pending sub nom., Alliance for Community Media v. FCC*, No. 07-3391 and cons. cases (Sixth Circuit).

I. THE COMMISSION SHOULD CONSIDER THE BROADER COMPETITIVE MARKET FOR BUNDLED VOICE, DATA AND VIDEO SERVICES AS IT ASSESSES WHETHER TO EXTEND ITS *CABLE FRANCHISE ORDER* FINDINGS TO RENEWALS OF INCUMBENT FRANCHISES

In the *FNPRM* the Commission tentatively concluded that its findings in the *Order* “should apply to cable operators that have existing franchise agreements as they negotiate renewal of those agreements with LFAs [local franchising authorities].”² In the *Order*, the Commission has made findings on several issues pertaining to cable franchises for the purpose of providing guidance on what actions by an LFA would constitute “an unreasonable refus[al] to award an additional competitive franchise” in violation of Section 621(a)(1).³ This statutory language is specific to franchise applications of potential competitors who are not currently providing video service in that area. In turn, the Commission’s implementing rules and interpretive guidance in the *Order* are specific to that situation.⁴

At the same time, to the extent that the Commission has interpreted provisions of the Communications Act that apply to any and all cable providers, such as Sections 611(a) and 622(a),⁵ then it would seem that such guidance would be applicable to any franchise negotiations, whether for initial competitive franchises or renewals of existing franchises. Thus, care must be taken to discern which rules and interpretative guidance in the *Order* should apply solely to additional competitive entrant franchises, and which should apply to all cable franchises.

² *FNPRM* ¶ 140.

³ *Order* ¶ 64.

⁴ It would seem, however, that what constitutes an unreasonable refusal to grant a franchise for a new competitive entrant would also be an unreasonable basis to refuse to renew that competitive franchise.

⁵ See Sections 611(a) and 622(a) from the Cable Communications Policy Act of 1984, Pub. L. No. 98-549, 98 Stat. 2779 (Oct. 30, 1984), as codified in the Communications Act of 1934, as amended, 47 U.S.C. §§ 531, 542.

Additionally, the Commission should also consider that the rules and guidance applicable to all franchises is also in concert with the existing statutory provisions regarding franchise renewals.⁶

Generally, like AT&T, Qwest has advocated to lessen regulatory requirements for incumbent service providers where competitive market conditions warrant it. Here, the purpose of the Commission's *Order* is to interpret Congress' mandate that local franchising processes not unreasonably inhibit new Competitive entry in the market for the provision of cable services. It also may be that some of the Commission's guidance for implementing that mandate reasonably may be applied to incumbent franchises as well. It is important to note, however, that today incumbent providers of cable service are increasingly also competitive providers of voice and data communications through a variety of communication technologies. Yet, incumbent local exchange carriers ("ILECs") providing voice and data services remain subject to a myriad of asymmetrical regulatory obligations. This is particularly the case in the voice services market in spite of increasingly vigorous competition to provide service in that market and several proposals before the Commission to eliminate now unnecessary regulation on ILEC provision of those services. Given this, Qwest urges that any equalizing of the regulatory framework for cable competition should be considered in parallel with, and certainly not prior to, equalizing of the regulatory framework for voice and data services.

II. LOCAL AND STATE AUTHORITIES MAY IMPOSE THEIR OWN CUSTOMER SERVICE STANDARDS, BUT COMPETITIVE ENTRY SHOULD REDUCE THE NEED FOR SUCH STANDARDS

In the *FNPRM*, the Commission also tentatively concluded that it cannot "preempt state or local customer service laws that exceed the Commission's standards, nor . . . prevent LFAs and cable operators from agreeing to more stringent standards," based on the language of Section

⁶ See 47 U.S.C. § 546.

632(d)(2).⁷ Qwest agrees with Verizon's comments on this issue.' State and local authorities may impose customer service requirements on cable franchisees pertaining to the provision of cable service. Yet, those customer service requirements must be true customer service requirements specific to the provision of cable service and not attempts to regulate other aspects of a cable provider's business in the guise of customer service requirements. Qwest would also note that as there is more competitive entry into the cable delivery service market the competitive market itself should drive improved customer service and lessen, if not eliminate, the need for regulated service standards. Thus, generally, an LFA should need to rely less on customer service standards for maintaining a certain level of service quality as it grants additional Competitive franchises.

Respectfully submitted,

QWEST COMMUNICATIONS
INTERNATIONAL INC.

By: Tiffany West Smink
Craig J. Brown
~~Tiffany West Smink~~
Suite 950
607 14th Street, N.W.
Washington, DC 20005
(303) 383-6619

Its Attorneys

May 7, 2007

⁷ *FNPRM* ¶ 143.

⁸ See Comments of Verizon, MB Docket No. 05-311, dated Apr. 20, 2007, pp. 2-9.

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **REPLY**
COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC. to be:
1) filed with the FCC via its Electronic Comment Filing System in MB Docket No. 05-311; 2)
served, via e-mail on Ms. Mary Beth Murphy, Media Bureau, Policy Division at
MaryBeth.Murphy@fcc.gov; 3) served, via e-mail on the FCC's duplicating contractor Best
Copy and Printing, Inc. at fcc@bcpiweb.com; and 4) served, via First Class United States mail,
postage prepaid, on the parties listed on the attached service list.

/s/ Richard Grozier
Richard Grozier

May 7, 2007

Kevin Krufky
Alcatel-Lucent
Suite 640, West Tower
1100 New York Avenue, N.W.
Washington, DC 20005

Christopher M. Heirnann
Gary L. Phillips
Paul K. Mancini
AT&T Inc.
Suite 1000
1120 20th Street, N.W.
Washington, DC 20036

Stephen J. Guzzetta.LFAs
Michael R. Bradley
Bradley & Guzzetta, LLC
Suite 950
444 Cedar Street
St. Paul, MN 55101

Mike Wassenaar
Cable Access-St. Paul, Inc.
d/b/a St. Paul Neighborhood Network
Suite 250
375 Jackson Street
St. Paul, MN 55101

Chuck Pena
Fairfax Cable Access Corporation
Suite S
2929 Eskridge Road
Fairfax, VA 22031

Robert Brading
MetroEast Community Media
829 NE 8th Street
Gresham, OR 97030

Alan Bushong
Capital Community Television
POB 2342
Salem, OR. 97308

Bill Kucera
City of Fairborn
44 West Hebble Avenue
Fairborn, OH 45324

Paul Glist.CCI
T. Scott Thompson
Christopher Fedeli
Davis Wright Tremaine, LLP
Suite 200
1919 Pennsylvania Avenue, N.W.
Washington, DC 20006

Michael C. Athay
Robert A. Sutton
City of Philadelphia
17th Floor
1515 Arch Street
Philadelphia, PA 19102

DeeDee Halleck
Deep Dish TV
339 Lafayette
New York, NY 10012

Diana E. Agosta
180 Claremont Avenue #32
New York, NY 10027

Beverly Hacker
Double Helix Corporation
Suite 100
625 N. Euclid
St. Louis, MO 63108

Scott Counsell
Everett Community TV
484 Broadway #3
Everett, MA 02149

Mitsuko R. Herrera
Allan W. Hide
Michael S. Liberman
Fairfax County Virginia
Suite 433
12000 Government Center Parkway
Fairfax, VA 22035-0045

Frederick E. Ellrod III,LCC
Miller & Van Eaton, PLLC
Suite 1000
1155 Connecticut Avenue, N.W.
Washington, DC 20036-4306

John W. Donovan
35 Newell Road
Auburndale, MA 02466

Kevin Kryzda
Martin County
2401 SE Monterey Road
Stuart, FL 34996

Gunnar D. Halley.Knology
Rebecca C. Zissel
Lawler, Metzger, Millsman, & Keeney, LLC
Suite 802
2001 K Street, N.W.
Washington, DC 20006

Chad S. Wachter
Felix Boccucci, Jr.
Knology, Inc.
1241 O.G. Skinner Drive
West Point, GA 31833

Kenneth S. Fellman.....GMTC
Suite 900
3773 Cherry Creek North Drive
Denver, CO 80209

Dan Coughlin
Manhattan Neighborhood Network
537 West 59th Street
New York, NY 10019

Cathy Grimes Peel
Miami-Dade County Florida
Suite 902
140 West Flagler Street
Miami, FL 33130

Nancy L. Werner.....MHCRC
Berry, Elsner & Hammond LLP
Suite 380
1750 SW Harbor Way
Portland, OR 97201-5106

Daniel L. Brenner
Neal M. Goldberg
National Cable &
Telecommunications Association
Suite 100
25 Massachusetts Avenue, N.W.
Washington, DC 20001-1431

Jeanne M. Fox
Frederick F. Butler
Connie O. Hughes
Joseph L. Fiordaliso
Christine Bator
New Jersey Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Daniel Mitchell
Karlen Reed
National Telecommunications
Cooperative Association
10th Floor
4121 Wilson Boulevard
Arlington, VA 22203

Mitchel Ahlbaum
Radhika Karnnarkar
The City of New York
9th Floor
75 Park Place
New York, NY 10007

Peter McGowan
John C. Graham
New York State
Department of Public Service
Three Empire State Plaza
Albany, NY 12223-1350

Nantz Rickard
Public Access Corporation
of the District of Columbia
901 Newton Street, N.E.
Washington, DC 20017

Jean L. KiddooRCN
Danielle Burt
Bingham McCutchen LLP
2020 K Street, N.W.
Washington, DC 20006-1806

Richard Ramlall
RCN Corporation
196 Van Buren Street
Herndon, VA 20170

Peter Epstein..FA
Epstein & August, LLP
Suite 900
101 Arch Street
Boston, MA 02110

Harriet A. SteinerSMCTC
McDonough, Holland & Allen, PC
9th Floor
555 Capitol Mall
Sacramento, CA 95814

Aaron I. Fleischman.Time Warner
Arthur H. Harding
Seth A. Davidson
Craig A. Gilley
Micah M. Caldwell
Fleischman and Walsh, LLP
Suite 600
1919 Pennsylvania Avenue. N.W.
Washington, DC 20006

Edward Shakin
William H. Johnson
Verizon
Suite 500
1515 North Courthouse Road
Arlington, VA 22201

Bruce S. Anderson
Village of Hoffman Estates
1900 Hassell Road
Hoffman Estates, IL 60169

Tony Perez
City of Seattle
Suite 2700
700 Fifth Avenue
PO Box 94709
Seattle, WA 98124-4709

Mike Reardon
City of Saint Paul
15 West Kellogg Boulevard
68 City Hall
St. Paul, MN 55102

Thomas W. Cohen.FTTH
Edward A. Yorkgitis, Jr.
Kelley Drye & Warren LLP
Suite 400
3050 K Street, N.W.
Washington, DC 20007

Jeff Shaw
David Media Access
1623 Fifth Street
Davis, CA 95616

Annie Folger
Midpeninsula Community Media Center
900 San Antonio Road
Palo Alto, CA 94303

Serena Ferguson Mann
Howard County Government
3450 Courthouse Drive
Ellicott City, MD 21043

Carl Kucharski
Portland Community Media
2766 NE Martin Luther King Jr. Blvd.
Portland, OR 97212

Zane Blaney
San Francisco Community Television Corp
1720 Market Street
San Francisco, CA 94102

Timothy M. Broering
Telecommunications Board of
Northern Kentucky
3414 Decoursey Avenue
Covington, KY 41015

D. Craig Martin.....WOW
Suite 209
259 E. Michigan Avenue
Kalamazoo, MI 49007

Gary Haakenson
121- 5th Avenue North
Edmonds, WA 98020

Keith Thibault
Fall River Community Television
777 Elsbree Street
Fall River, MA 02720

Bruce Crest
Metropolitan Area Communications Commission
Suite 6020
1815 NW 169th Place
Beaverton, OR 97006

Dawn Wills
302 N. Clark Street
River Falls, WI 54022

Herb W. Bergson
City of Duluth, Minnesota
Room 403
411 West First Street
Duluth, MN 55802

Chad A. Johnston
The Peoples Channel
300AC South Elliott Road
Chapel Hill, NC 27514

Michael Max Knobbe
BronxNet
Carman Hall Rm C19B
Bronx, NY 10468